Nangarhar University Social Science Journal
e-ISSN: 3079-2398 (Online) p-ISSN: 3079-238X (Print)
NUSSJ
Vol:2(02), April-June: 2025
Journal Homepage: https://nussj.nu.edu.af

RESEARCH ARTICLE

The Definition of the Crime of Aggression: A Historical and Analytical Study of the International Law Instruments

Mahfuzullah Arify[1], *Mairajuddin Aminzai*[2]

1Department of Law, Faculty of Law and Political Sciences, Nangarhar University, Jalalabad, Afghanistan
2Department of Law, Faculty of Law and Political Sciences, Nangarhar University, Jalalabad, Afghanistan

ABSTRACT

The issue of the use of armed forces and aggression by one state against the sovereignty and independence of another state is highly controversial and debatable in international law. Accordingly, from ancient times until the 21st century, the definition of the crime of aggression was not established. Various efforts have been made over the past century to define the crime of aggression at the international level, which ultimately resulted in the crime of aggression being included in the Statute of the International Criminal Court, and later through amendments to the Statute, the crime of aggression was defined and its specific elements were determined. This research aims to outline the efforts made to define the crime of aggression and clarify its definition and concept considering international law instruments. This is doctrinal research that examines the topic using historical and analytical methods. The definition of the crime of aggression has been clarified according to key legal instruments of international law. The research findings indicate that the crime of aggression is the planning, preparation, starting, or carrying out the act of aggression by the political or military authorities of a state. This act, by its nature, gravity, and scope, should violate the charter of the United Nations. Additionally, the crime of aggression involves the use of armed forces by one state against the political independence, territorial integrity, or sovereignty of another state.

ARTICLE INFO

Keywords

Crime of aggression, Act of aggression, International Criminal Court, General Assembly Resolution 3314, The Kampala Conference.

Article History

Received: 10-03-2025
Accepted: 04-04-2025
Published: 09-04-2025

Cite this Article

Arify, M., & Aminzai, M. The Definition of the Crime of Aggression: A Historical and Analytical Study of the International Law Instruments. Nangarhar University Social Science Journal, 2(02), 1–10.
https://doi.org/10.70436/nussj.v2i02.30

Introduction

According to international law, specifically the UN Charter, states' unlawful use of force is prohibited. However, despite the prohibition of such actions under international principles, states still carry out aggression against the territory and sovereignty of other states. Based on international law, the most severe form of the illegal use of force is the crime of aggression, which provides grounds for committing other crimes. In this study, we seek to find answers to the following questions: What efforts have been made to define the crime of aggression? How has the crime of aggression been defined according to international legal instruments, and what cases have been included in this definition? Unfortunately, due to the differing viewpoints and interests of states, for a long time, there was no universally accepted definition of the crime of aggression. Finally, in the late 20th century, the crime of aggression was included among the crimes under the

*Corresponding Author:
Email: mairaj.ngr@gmail.com (Arify, M)
https://doi.org/10.70436/nussj.v2i02.30
© 2024 The Authors. Published by Nangarhar University, this is an open access article published under the CC-BY license https://creativecommons.org/licenses/by/4.0

jurisdiction of the International Criminal Court (International Criminal Court, 1998). However, the statute of the court did not provide a specific definition for the crime of aggression. Of course, following the ongoing work and efforts of various committees and commissions, as foreseen in the Statute of the International Criminal Court, at the Statute Review Conference held in 2010, the definition of the crime of aggression and the conditions for the jurisdiction of the ICC over this crime were clarified (Grigoryan, 2020). This was considered a significant achievement and success at the international level.

Since, at times, certain states commit aggression against the territory of other countries to protect their political, economic, military, and other interests, the issue of aggression is a highly important and sensitive topic in both public international law and global politics. The significance of this research lies in examining, based on international legal documents, the concept of the crime of aggression and the elements of the definitions that have been established. It clarifies to what extent the definitions provided for the crime of aggression are appropriate and inclusive. The preeminent purpose of the research is to outline the efforts made globally to define the crime of aggression and to clarify the concept of this crime from the perspective of international legal instruments. The study has examined the crime of aggression within the framework of international law, meaning that it has been done per important international law documents such as the United Nations Charter, United Nations General Assembly resolutions, and the Statute of the International Criminal Court. Accordingly, we will first briefly mention the efforts made to define the crime of aggression and then analyze the established definition of the crime of aggression according to General Assembly Resolution 3314(XXXX) and the amendment of the Kampala Conference of 2010.

Research Methodology

This study adopts a doctrinal legal research approach, utilizing historical and analytical methods to examine the subject. Since various efforts have been made by different countries and international organizations over the past century to define the crime of aggression, we have chosen a historical method to examine this issue. On the other hand, the analytical method has been used in examining the definition of the crime of aggression to determine which cases are legally included in the definition of aggression and which situations are not, and to clarify the extent to which the definition is applicable. The relevant topic is analyzed based on key international legal documents, such as the Charter of the United Nations, the resolutions of the UN General Assembly, and the statute of the International Criminal Court, this topic has also been evaluated based on articles published in academic journals and books written in this field.

Literature Review

Several studies, academic articles, and books have been written on the historical efforts made regarding the crime of aggression and the concept of the definition of the crime of aggression, some of which we briefly mention here: Haidari (2013) discussed the historical background of the definition of the crime of aggression and the historical changes that have occurred over the past century and mentioned all the efforts that have been made to define the crime of aggression since the establishment of the League of Nations.

(Hamidi, 2017) briefly mentioned the efforts made to define aggression, and on the other hand, only the definition of the crime of aggression according to General Assembly Resolution 3314 is discussed, but the definition of aggression according to the Kampala Conference amendments is not examined.

The study by (Taramsiri et al., 1987) discusses historical efforts to define the crime of aggression and also analyzes the definition of the crime of aggression made in 1974 from the perspective of international law.

Caban (2015) conducted a study that examined the definition of the crime of aggression as amended by the Kampala Conference and discussed the activation of the jurisdiction of the International Criminal Court to address this crime.

1. Historical Efforts Made to Define the Crime of Aggression

The key efforts made by various countries and international organizations at the global level to define and clarify the concept of the crime of aggression are as follows.

1. 1 The Charter of the League of Nations and the Crime of Aggression

The charter of the League of Nations did not provide a specific definition of the crime of aggression. However, Article 10 of the charter obligated member states to respect

the territorial integrity and political independence of other states. Any act of aggression, threats, or dangers of aggression was considered a breach of peace, and the League's Security Council was responsible for deliberating on appropriate measures (Haidari, 2013). In short, the charter of the League of Nations did not provide any definition of the crime of aggression, however, it limited the crime of aggression to the violation of a country's political independence and territorial integrity. Additionally, the aforementioned charter did not specify the standards and mechanisms for responding to acts of aggression.

1. 2 The Definition of the Crime of Aggression under the 1932 Disarmament Conference

In the 1932 disarmament conference, the French government presented a proposal about the occurrence of the crime of aggression, the identification of the aggressor, the treatment of victims, and the establishment of a fact-finding commission (Hamidi, 2017). During the debate on this proposal, the argument was raised that unless a universally accepted definition of aggression was established, each state would make decisions based on its exclusive authority in self-defense, and no court would be able to determine the aggressor in an armed conflict. Therefore, it was deemed essential to define aggression first to distinguish it from self-defense. In 1933, the first attempt to provide such a definition was made by the Soviet Union representative, who submitted a proposed definition to the disarmament conference. The Soviet Union's proposal stated that a state would be considered an aggressor if it initiated any of the following actions:

- Declaring war against another state.
- Launching an armed invasion into the territory of another country without a formal declaration of war.
- Bombing another country's territory by ground, naval, or air forces, or deliberately attacking another state's naval and air forces.
- Deploying ground, naval, and air forces in the territory of another state or crossing the borders of another state without the permission of the other country or violating the conditions of the consent regarding the period and place of stay of the forces.
- Attacking another state's territory, ships, or airplanes using military force.
- Blockade of another country's coasts and ports (Taramsiri et al., 1987).

The above-mentioned draft also did not provide a precise definition of the crime of aggression; however, it explains the criteria for determining aggression and the relationship between aggression and war. These points were later utilized in the General Assembly's Resolution 3314. During the discussion about the proposed draft of the Soviet Union, various opinions were presented. Ultimately, the issue of defining aggression was referred to the Security Issues Committee of the disarmament conference. On May 24, 1933, this committee submitted its report to the conference. The report included a draft treaty on the definition of aggression, largely based on the Soviet Union's proposed definition. However, due to differing views among the participating states, the draft treaty on the definition of aggression remained unresolved at the disarmament conference (Taramsiri et al., 1987).

Beyond the League of Nations, there were also other international efforts to define the crime of aggression. In this series, one important legal document in this regard is the 1933 London Agreement, which was signed between the Soviet Union, Lithuania, Estonia, Afghanistan, Iran, Poland, Turkey, and Romania (Bigdeli, 2017). This agreement was based on the Soviet Union's proposed definition. Although the London Agreement did not gain widespread acceptance, it is considered an important achievement in the history of defining aggression.

1. 3 The Crime of Aggression under the Statutes of Nuremberg and Tokyo Tribunals

According to the statute, the Nuremberg Criminal Court had jurisdiction to deal with three types of crimes, the first of which was crimes against peace. According to Article 6 of the Statute, planning, preparing, initiating, or waging acts of aggression in violation of international treaties and guarantees are crimes against peace (Baek, 2006). Of course, the Nuremberg Tribunal never defined aggressive war, and the Tokyo Criminal Tribunal also followed the Nuremberg statute. This is because, in their view, the lack of a definition of the crime of aggression does not prevent the prosecution of perpetrators, and the Japanese attack is considered a war of aggression in any case.

1. 4 The Crime of Aggression according to the United Nations Charter

The committee on breaches of the peace, threats to the peace, and acts of aggression at the San Francisco Conference also faced the problem of defining aggression.

There was a lengthy discussion at the conference about whether or not to include a definition of aggression in the UN charter. Despite many supporters of including a definition of aggression in the charter, some principled oppositions were felt, and the definition of aggression was to be outside the mandate of the conference and the objectives of the charter. Thus, the definition of aggression was not included in the charter of the United Nations (Taramsiri et al., 1987).

The creation of the United Nations charter was a new stage in the concept of non-aggression on the territory of other countries because this concept is not limited to the prohibition of aggressive war. According to article 2 of the charter, all member states of the United Nations must refrain in their international relations from the threat or use of force against the independence or territory of other states, or in any other way that is contrary to the aims of the United Nations (United Nations, 1945: Article 2(4)).

According to articles 39-43 of the charter, in the event of a determination of aggression, the Security Council has the right to use armed force against the aggressor state, and the state under attack also has the right to defend itself until the Security Council intervenes (Haidari, 2013). In short, although the UN charter contains provisions related to threats, breaches, and aggression against international peace, it does not define the crime of aggression.

1. 5 The International Law Commission and the Definition of the Crime of Aggression

The International Law Commission was established in 1947, on the recommendation of the political affairs committee of the United Nations General Assembly, to elaborate and regulate the principles of the Nuremberg Tribunal's Statute, and in particular the existing principles regarding aggressive war. During the commission's review of these principles, a conflict arose between major powers, and the issue of defining the crime of aggression was raised again. Several proposals were also made by some countries; for example, the Soviet Union proposed that a treaty on the crime of aggression should be concluded. However, the Soviet proposal was opposed by the United States, France, and Britain. They believed that determining the aggressor state and defining the crime of aggression was within the competence of the Security Council, and the General Assembly should not interfere in such matters (Taramsiri et al., 1987).

The question of defining the crime of aggression was again taken up by the International Law Commission at its third session in 1951. The rapporteur of the session expressed a negative opinion, stating that the definition of aggression was unacceptable and that it was impossible to define the crime of aggression since the means and methods of aggression were constantly changing. Therefore, the commission did not propose any definition for the crime of aggression (Hamidi, 2017).

1. 6 Special Committees of the General Assembly to Define the Crime of Aggression

From 1952 to 1967, the General Assembly established several committees to define the crime of aggression. Initially, the General Assembly formed a series of committees, beginning with a 15-member committee, followed by a 19-member, a 21-member, and then a 35-member committee, to examine existing considerations regarding the concept of aggression and report back to the General Assembly. Unfortunately, even after a long period, the same old conflicting views about the definition of aggression remained, largely impressed by the conditions of the Cold War (Baek, 2006).

During the work of the fourth committee, three different drafts were presented. After much effort and negotiation, the committee was able to create a resolution about the crime of aggression by combining the various perspectives of the three drafts. This resolution, consisting of a preamble and eight articles, was presented to the General Assembly, and adopted on December 14, 1974 (Wilmshurst, 2008). We will discuss the definition presented in this resolution.

1. 7 The International Criminal Court and the Definition of the Crime of Aggression

The crime of aggression was a controversial and contentious issue in the discussions on the formation of the Statute of the International Criminal Court from the very beginning, but despite the opposition of some countries, the International Law Commission included the crime of aggression in the draft Statute. In general, there were four views regarding the definition of the crime of aggression in the Preparatory Committee for the establishment of the International Criminal Court:

1. **General Definition of Aggression**: This definition was contentious because it would have been difficult to accept for many countries, especially powerful states.

2. **General Definition of Aggression with Strong Elements of Confirmation**: This approach aimed to include more detailed and confirmatory elements.

3. **Non-definition of Aggression and Referral to the Security Council for Determination**: This position was opposed by many countries.

4. **Excluding the Crime of Aggression from the ICC Statute**: This approach was essentially a step backward, as it disregarded previous trials such as those in the Nuremberg and Tokyo Tribunals, where high-ranking Nazis and Japanese officials were trailed for aggression (Diham, 2005).

These debates continued during the 1998 Rome Conference, where disagreements persisted. During the vote on July 17, 1998, 17 countries opposed the inclusion of aggression in the Court's statute. Some countries wrangled that a definition of aggression already existed under the General Assembly's Resolution 3314, and there is no need for a second definition. Throughout the conference, various proposals were presented about the definition, determination, and jurisdiction of aggression, which faced opposition in various forms from other countries (Hamidi, 2017). After extensive discussions, a compromise was reached in Article 5 of the ICC Statute, which included aggression under the jurisdiction of the court. Article 5(2) of the statute states: "The Court shall exercise jurisdiction over the crime of aggression once a provision is adopted in accordance with articles 121 and 123 defining the crime and setting out the conditions under which the Court shall exercise jurisdiction with respect to this crime. Such a provision shall be consistent with the relevant provisions of the Charter of the United Nations" (International Criminal Court, 1998: Article 5).

It should also be noted that after the Rome Conference, in various meetings of the preparatory commission and working groups that were convened at different times, there were extensive and lengthy discussions on the definition of the crime of aggression, the conditions for addressing the crime of aggression, and the role of the Security Council (Baek, 2006). Finally, at the 2010 Kampala Conference, relative agreement was reached about the definition of the crime of aggression and the jurisdiction of the court.

1. 8 The 2010 Kampala Conference and the Definition of the Crime of Aggression

Article 123 of the Statute of the International Criminal Court mentioned that a conference would be held seven years after the Statute's general enforcement. At this conference, member states would discuss whether any amendments were necessary to the Statute, and there would also be discussions regarding the definition of the crime of aggression (Danish, 2012). When the Statute of the International Criminal Court came into force in 2002, the review conference was not held in 2009 due to some problems, but a year later, in 2010, the conference was held in Kampala, the Capital of Uganda. However, before the conference, there was much disagreement about the definition of the crime of aggression and the application of the jurisdiction of the ICC (Caban, 2015). The most significant amendment made during this conference was regarding the crime of aggression. The crime was defined, specific cases of aggression were identified, and the provisions regarding the ICC's jurisdiction over the aggression were approved.

2. Legal Analysis of the Definition of the Crime of Aggression

We will discuss the definitions of the crime of aggression according to the 3314 resolution of the United Nations General Assembly and the amendment of the Kampala Conference 2010.

2. 1 The Definition of the Crime of Aggression under the General Assembly 3314 Resolution

The United Nations General Assembly, under Resolution 2330 of 1967, established a Special Committee to define the crime of aggression. As a result of the work of this committee, the General Assembly adopted Resolution 3314 on 14 December 1974, by consensus of the member states of the organization, which consists of a preamble and eight articles (Aqaee, 2011). General Assembly Resolution 3314 defines the crime of aggression in a general manner in Article 1, and Article 3 lists the acts of aggression and prohibited acts (Baek, 2006). According to Article 1 of the aforementioned resolution, the crime of aggression is defined as follows: "Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this definition" (United Nations General Assembly, 1974, Article 1).

According to this definition, only the use of armed force is considered aggression; it is the use of armed force by one state against the sovereignty, territorial integrity, or political independence of another state, or the use of armed force in a manner that is contrary to the charter of the United Nations and other international principles. This definition considers only the use of armed force as aggression and does not include aggression through economic or ideological means.

Also, according to this definition, the mere threat of using armed force is not considered aggression. Another important point is that the use of armed forces will be external in nature, and the use of armed forces at the internal level is not considered aggression (Zhimin, 2023). The use of armed forces must be contrary to the sovereignty, territorial integrity, and political independence of another state. If a state does not have the stated objectives for using force and armed forces enter the territory of a country for another purpose, such as pursuing opponents or rebel groups, then the act is not considered aggression.

This definition attempts to be consistent with the United Nations charter, and the use of armed force that is not contrary to the UN charter and its principles is not considered aggression, such as a situation of self-defense. It is also important to note that the above definition uses the word "state" in an absolute sense and does not specify whether the aggressor state and the state under attack are members of the United Nations or not or whether they are officially recognized by other states. It was left to the United Nations Security Council to decide whether any entity should be considered a state or not for Resolution 3314 (Boas, 2013).

Article 3 of the above-mentioned resolution lists acts that are considered acts of aggression. The article says: “Any of the following acts, regardless of a declaration of war, shall, subject to and in accordance with the provisions of Article 2, qualify as an act of aggression: (a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof; (b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State; (c) The blockade of the ports or coasts of a State by the armed forces of another State; (d) An attack by the armed forces of a State on the land, sea, or air forces, or marine and air fleets of another State; (e) The use of armed forces of one State that are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement; (f) The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State; (g) The sending by or on behalf of a State of armed bands, groups, irregulars, or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein” (United Nations General Assembly, 1974, Article 3).

Seven clauses are mentioned in Article 3 of the resolution about the definition of aggression. During the work of the committee, there was a difference of opinion on the above-mentioned issues by different countries, and after a long discussion, they agreed on the above definition. In the above seven clauses, five clauses are mentioned about direct aggression, one clause (sixth) is about cooperation, and one clause (seventh) is about indirect aggression.

According to Article 4 of the resolution, not only do the seven acts mentioned above constitute acts of aggression, but the Security Council may also consider certain other acts as acts of aggression by the provisions of the charter. (Begdali, 2017) Article 2 states that the use of armed force by a country in violation of the charter is considered a flagrant act of aggression, and the Security Council will determine whether it constitutes an act of aggression, taking into account the circumstances of the time. It can be seen here that the Security Council has been given too much authority to determine an act of aggression, and the term "circumstances" is also broad and vague, allowing Security Council members to interpret it in any way they want (Shaw, 2010).

2. 2 Definition of the Crime of Aggression as Amended by the 2010 Kampala Conference

According to the Kampala Conference Amendment, the crime of aggression was defined as follows in Article 8bis of the Statute of the International Criminal Court: “1. For the purpose of this Statute, crime of aggression, means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale,

constitutes a manifest violation of the Charter of the United Nations. 2. For the purpose of paragraph 1, act of aggression means the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the charter of the United Nations" (International Criminal Court, 2010, Article 8bis).

In the above article, four states of acts of aggression (planning, preparation, initiation, and execution) are considered as instances of committing the crime of aggression. Therefore, if an attempt is made to commit acts of aggression in one of these four ways, the perpetrator is considered an aggressor (Aqaee, 2011). The above four-fold approach is precisely taken from the Nuremberg and Tokyo statutes. In addition, the above definition uses the provisions of the UN Charter, the London Charter, and General Assembly Resolution 3314 of 1974.

The consideration and planning of an aggressive act is an inherent element through which the act of aggression is carried out in the future. This planning is typically carried out by the political leaders of the country or influential military generals (Malkizadeh, 2023). The phase following planning is the preparation for the act of aggression, which can take various forms, such as searching for justifications for aggression through diplomatic means, preparing military forces, procuring weapons and ammunition, or conducting airstrikes in the relevant area (Grigoryan, 2020). The initiation of an act of aggression is the ordering of the use of the plan and the means provided. The fourth is the execution of the act of aggression, which takes place after the initiation, and in this stage, the main objective of the aggression is managed (Malkizadeh, 2023).

It should also be noted that the Kampala Amendment distinguishes between the crime of aggression and the act of aggression. Article 1 describes the crime of aggression, which gives rise to the responsibility of natural persons, and Article 2 describes the act of aggression, which gives rise to the responsibility of a legal person, such as a State. In general, according to the amendments of the Kampala Conference, the following elements are outlined for the crime of aggression:

- Act of aggression: The first element of the crime of aggression is the act of aggression or the use of military force by a State that undermines the sovereignty, territorial integrity, or political independence of another State (Zhimin, 2023).
- Intent and purpose of aggression: For the crime of aggression to be committed, the perpetrator must have the intent to commit aggression, meaning that the officials or leaders who decide to commit aggression must be consciously aware that their action will seriously harm the territorial integrity and political independence of another state and that this action is contrary to the Charter of the United Nations. Article 30 of the Statute of the ICC states: "Unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge" (International Criminal Court, 1998: Article 30). Accordingly, the existence of intent and knowledge of these acts are essential for the crime of aggression and the actions of the aggressors. Article 8bis of the Statute also refers to the awareness and knowledge of the aggressors in the context of the elements of the crime of aggression. It explicitly states: "The perpetrator must be aware of the actual situation, conditions, and circumstances regarding the use of armed forces and must understand that it is in contradiction with the Charter of the United Nations" (International Criminal Court, 2010, Article 8bis).
- The perpetrator must be a senior official: The crime of aggression is only relevant to high-ranked officials who bear responsibility for a state's major decisions and hold senior positions in the military and political institutions of the state, with other military personnel under their command, such as the president, prime minister or the minister of defense. Therefore, ordinary soldiers and lower-ranking officials are not held responsible for the crime of aggression (Aqaee, 2011). Additionally, individuals who lead a terrorist group or insurgents, although they may influence state decisions, are not included in this definition and are not under the jurisdiction of the ICC.
- Blatant violation of the UN Charter: The acts mentioned in the definition of aggression must be committed in violation of the Charter of the United Nations and international norms, so any

measures taken in the name of the Security Council or the form of collective or self-defense to maintain peace are not considered aggression (Boas, 2013).

- It must have an external dimension: The crime of aggression must have an external and international nature, meaning it must be committed by one state against another. This act would be such a serious violation that it constitutes a clear breach of international security (Zhimin, 2023).

Findings

The findings of the research show that one of the most controversial issues in international criminal law is the definition of the crime of aggression. Over the past century, a series of efforts have been made internationally, especially by the United Nations, to define the crime of aggression, which has finally led to a universally accepted definition of the crime of aggression and clarification of the elements involved. The most important measure in this regard is General Assembly Resolution 3314 of 1974, which specifies certain cases of the crime of aggression. Later, the crime of aggression was included in the Statute of the International Criminal Court as a crime within the jurisdiction of the court, but the statute did not provide a specific definition of aggression. As foreseen by the Rome Statute, the Kampala Conference in 2010 clarified the definition of the crime of aggression and the terms for the jurisdiction of the International Criminal Court, which is considered a significant achievement at the international level.

The crime of aggression is the planning, preparation, commencing, or executing of an act of aggression by a political or military official of a state which, by its nature, gravity, or extent, constitutes a clear violation of the charter of the United Nations. The essential element of the crime of aggression is the use of armed force by one state against another state in a manner that undermines its sovereignty, territorial integrity, or political independence, or in any other way that violates the charter of the United Nations. According to the definition of aggression, aggression is an act of aggression by one state against another state, including invasion, attack, military occupation, forcible annexation of territory, bombardment, blockade of ports, land or air attack, allowing a state to use its territory to attack a third state, and employing armed groups, irregular forces, or armed mercenaries to attack other states.

Discussion

From the perspective of international law, the most severe form of the illegal use of force is the crime of aggression, which serves as a precursor to the commission of other international crimes. This crime is carried out with the support, encouragement, solicitation, and order of government officials. The findings of this study indicate that over the past century, many efforts have been made by states, the United Nations, and other international organizations to define the crime of aggression. In this regard, our research and that of Haidari (2013) make it clear that the reason for the lack of a precise and universally accepted definition of the crime of aggression at the international level for such a long time was the influence of the world's superpowers on international politics and international law. The great powers of the world preferred not to take any action on the definition of aggression because they were attacking other states under various pretexts and did not want their acts of aggression to be defined as a state offense or an international crime that entailed criminal liability.

This study and Hamidi's (2017) study show that after much effort, the crime of aggression was clarified in 1974 by the United Nations General Assembly Resolution 3314, but it is important to note that no authority was specified to address the crime of aggression. Later, the crime of aggression was included in the Statute of the International Criminal Court, but the said Statute did not define the crime of aggression.

Malkizadeh (2023) and the findings of this study clarify that, according to the Kampala Conference Amendments, the crime of aggression is the commission of an act of aggression by a political or military official of a State against another State, which, by its nature, gravity, and extent, constitutes a clear violation of the Charter of the United Nations. In this definition, only the use of armed forces is considered aggression. Other acts, such as cyber and internet attacks aimed at disabling a country's military or economic sectors, or economic sanctions intended to alter a political system, are not included in this definition. It is also important to note that the UN Charter and the Statute of the International Criminal Court give the UN Security Council extensive authority to address the crime of aggression, which is sometimes misused by the permanent members of the Security Council for their own interests.

Conclusion

In this study, we discussed historical efforts to define the crime of aggression from the perspective of international law, following the objectives of the study, and then we analyzed the legal definition of the crime of aggression from the perspective of international legal instruments. Many efforts have been made by the United Nations and other organizations to define the crime of aggression, which finally resulted in a universally accepted definition of the crime of aggression at the Kampala Conference in 2010. The crime of aggression is the use of armed force by high-ranking officials of one state against the sovereignty, territory, or independence of another state, or any other similar act of aggression contrary to the Charter of the United Nations.

The scientific importance of this study is that it clarifies the definition of the crime of aggression, and in practice, if a crime of aggression is committed by one state against another, it clarifies which acts are considered crimes of aggression under international law and falls under the jurisdiction of the International Criminal Court. A key issue facing the application of the jurisdiction of the International Criminal Court concerning the crime of aggression is that the jurisdiction of this court does not apply to countries that have not ratified the court's statute. In this regard, we recommend to international legal institutions, especially the United Nations, that the jurisdiction of the court be expanded to include the crime of aggression and that the provisions of the statute be considered applicable to countries that are not members of the court. We also recommend that experts in this field conduct further research on the application of the jurisdiction of the International Criminal Court regarding the crime of aggression and the relevant provisions of the Statute.

Conflict of Interests

The Authors declare no conflict of interest in any part of the research.

References

Aqaee, H. (2011). Definition, Elements, and Conditions for the Application of the International Criminal Court's Jurisdiction over the Crime of Aggression (Based on the Kampala Amendment), *International Legal Journal*, Issue 44, 163-184.

Baek, B. S. (2006). The Definition and Jurisdiction of the Crime of Aggression and the International Criminal Court, *Cornell Law School*.

Bigdeli, M. R. Z. (2017). *Public International Law* (H. Hakimzai, Trans). New Mustaqbil Publisher.

Boas, A. T. (2013). The Definition of the Crime of Aggression and its Relevance for Contemporary Armed Conflicts, *International Crime Database*, ICD Brief 1.

Caban, P. (2015). The Definition of the Crime of Aggression –Entry into Force and The Exercise of the Court's Jurisdiction Over this crime, *CYIL, 6*, 61-76.

Danish, H. (2014). *International Criminal Law*, Volume 2, Mustaqbil Publisher.

Diham, A. (2005). *Introduction to International Criminal Law*, Ministry of Foreign Affairs Publications.

Grigoryan, H. (2020). Aggression as a Crime in International and National Criminal Law, *WISDOM* 1(14), 122-130.

https://doi.org/10.24234/wisdom.v14i1.329

Haidari, H. (2013). A Study of the Historical Evolution of the Concept and Definition of Aggression, *Legal Information*.

Hamidi, A. N. (2017). *International Criminal Court and Crimes under its Jurisdiction*, Muslim Publishing House.

International Criminal Court. (1998). *Rome Statute of the International Criminal Court*.

https://treaties.un.org/doc/treaties/1998/07/19980717%2006-33%20pm/english.pdf

International Criminal Court. (2010). Amendment to the Rome Statute of the International Criminal Court on the Crime of Aggression, RC/Res.6.

https://asp.icc-cpi.int/sites/asp/files/asp_docs/Resolutions/RC-Res.6-ENG.pdf

Malkizadeh, A. H. (2023). Material Element of Territorial Aggression in the International Criminal Court's Statute in the Light of the Kampala Review Conference Resolution, *International Studies Journal*, Vol. 19, Issue 4(76), 51-73.

https://doi.org/10.22034/ISJ.2023.339566.1820

Shaw, M. N. (2010). *International Law* (M. H. Waqaar, Trans). Information Publications.

Taramsiri, M & et al. (1987). The Concept of Aggression in International Law, *International Law Review*, Issue 8, 7-53.

United Nations General Assembly. (1974). *Definition of the Crime Aggression* (Resolution 3314(XXXX)).

https://crimeofaggression.info/documents/6/General_Assembly_%20Resolution_%203314.pdf

United Nations. (1945). Charter of the United Nations.

https://www.un.org/en/about-us/un-charter/full-text

Wilmshurst, E. (2008). Definition of Aggression, *United Nations Audiovisual Library of International Law*, United Nations.

https://legal.un.org/avl/pdf/ha/da/da_e.pdf

Zhimin, G. (2023). Study on the Jurisdiction of the International Criminal Court Over the Crime of Aggression, *International Journal of Social Science Research and Review*, Volume 6, Issue 11, 126-131.

http://dx.doi.org/10.47814/ijssrr.v6i11.1742